



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 30, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0087

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

Stadium #1's staff asked Named Employee #1 (NE#1) to admonish a ticket scalper, the Complainant, for causing a disturbance. The Complainant alleged that NE#1 unlawfully arrested him, and unidentified officers—Named Employee #2 (NE#2)—were biased against his race since other scalpers were not arrested.

The following week, Stadium #1's staff asked NE#1 to arrest the Complainant for criminal trespass. The Complainant again alleged unlawful arrest.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's agreement, believed it could reach and issue recommended findings based on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

SUMMARY OF INVESTIGATION:

A. Initial Complaint & OPA Interview of CM#1

OPA interviewed the Complainant, who reiterated that he was unlawfully arrested. The Complainant insisted he was targeted by the Seattle Police Department (SPD) and Stadium #1's security because of his race and denied scalping tickets on Stadium #1's property – he said he was on public property. The Complainant admitted that officers gave him a chance to leave, but the Complainant did not believe Stadium #1's security was authorized to have him



trespassed. The Complainant said he returned to Stadium #1 the following week and was arrested for trespassing. The Complainant believed that Stadium #1 had no property interest where he was arrested.

B. Body-Worn Video (BWV) and In-Car Video (ICV)

OPA reviewed BWV, capturing the Complainant's arrests. In summary, it showed:

NE#1 and Witness Employee #1 (WE#1) approached the Complainant near Stadium #1's will call. WE#1 ordered the Complainant to leave. The Complainant refused and became verbally abusive. The Complainant repeatedly accused NE#1 and other officers of racism. He also claimed he was on public property. The Complainant approached WE#1 while shouting. WE#1 pushed the Complainant with an open hand.

WE#1 told the Complainant he was on private property and could be arrested for trespassing. The officers also showed the Complainant where Stadium #1's property ended and where he could stand on a public sidewalk. NE#1 and other officers gave the Complainant several orders to leave Stadium #1, but he refused.

NE#1 arrested the Complainant. The Complainant alleged that officers were biased since no other scalper was arrested. NE#1 explained that the Complainant was arrested for trespassing, not scalping. NE#1 reminded the Complainant that they spent about 25 minutes trying to convince him to leave. During a search, NE#1 retrieved a large folding knife from the Complainant's back pocket.

NE#1 saw the Complainant at Stadium #1 the following week. NE#1 warned the Complainant that he was banned and ordered him to leave. The Complainant denied being on Stadium #1's property. NE#1 and backing officers again arrested the Complainant.

C. Incident Reports

NE#1 authored incident reports documenting the Complainant's arrests. NE#1 wrote that supervisors sent him to Stadium #1 for a ticket scalper—later identified as the Complainant—caused a disturbance. NE#1 recognized the Complainant, who had a laminated Stadium #1 seating chart, from prior encounters. NE#1 wrote, *"[t]he property line for [Stadium #1] is very clear. At the northwest ticket area, there are larger paving blocks near the stadium. There is white caulking dividing the large paving blocks from much smaller paving blocks. The smaller paving blocks are the public sidewalk. The difference is stark. [The Complainant] was repeatedly told that he had to be on small paving block side of the line. He was shown the line. He refused to leave and was arrested."*

NE#1's reports were consistent with OPA's BWV review. NE#1 also wrote that a search of the Complainant yielded a knife with an illegally long blade.

D. Chain of Command Bias Reviews



OPA reviewed Witness Supervisor #1's (WS#1) and Witness Supervisor #2's (WS#2)—NE#1's supervisors—bias reviews. Bias reviews are screenings conducted by an officer's chain of command when *"an allegation of bias-based policing occurs whenever, from the perspective of a reasonable officer, a subject complains that he or she has received different treatment from an officer because of any discernible personal characteristic."* SPD Policy 5.140-POL-5.

WS#1 was present during the Complainant's first arrest. WS#1 wrote that the Complainant generally alleged bias by officers rather than specifying a biased officer. WS#1 wrote that officers intended to remove the Complainant from Stadium #1's property without further law enforcement action, but the Complainant refused to leave. WS#1 noted that *"[a]t the time there were numerous other individuals engaging in the same ticketing practices in the immediate area of the same race [as the Complainant] who were compliant with our requests and understood the reasoning for the request."*

WS#2 wrote that Stadium #1's security contacted him on the date of the Complainant's first arrest requesting that SPD admonish the Complainant. WS#2 noted that Stadium #1's security reportedly witnessed the Complainant scalping tickets. WS#2 also concluded that there was no evidence of bias. Contrarily, WS#2 wrote that NE#1 and the other officers were patient and professional.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime to Effect an Arrest

The Complainant alleged he was unlawfully arrested.

Officers must have probable cause that a suspect committed a crime when effectuating an arrest. SPD Policy 6.010-POL-1. An arrest unsupported by probable cause violates the law and department policy. Probable cause exists when the facts and circumstances within an officer's knowledge are sufficient to support a reasonable belief that an offense has been or is being committed. *See State v. Fricks*, 91 Wash.2d 391, 588 P.2d 1328 (1979); *State v. Gluck*, 83 Wash.2d 424, 426–27, 518 P.2d 703 (1974). SMC 12A.08.040(b) - Criminal Trespass in the 2nd Degree occurs when someone *"...knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree."*

Here, Stadium #1 requested that the Complainant be trespassed for conducting unauthorized ticket sales on Stadium #1's property. NE#1 and other officers gave the Complainant several opportunities to leave, but he refused. Similarly, the Complainant's second arrest occurred when NE#1 saw him at Stadium #1, ordered him to leave, and the Complainant refused.

Accordingly, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

Named Employee #1 - Allegation #1

5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing



The Complainant alleged that NE#2 engaged in bias-based policing by singling him out for reselling tickets on Stadium #1's property.

SPD prohibits biased policing, defined as "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual." SPD Policy 5.140-POL. That includes different treatments based on the race of the subject. *Id.*

OPA found no evidence that the Complainant was treated differently based on race or another discernible personal characteristic. NE#2 enforced trespassing laws after Stadium #1 requested police assistance. While the Complainant alleged SPD targeted him, WS#2's bias review noted that other scalpers of the Complainant's race left the area when asked by officers. The Complainant was arrested because he refused to heed the officers' warnings.

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**